

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARVIN LOTT,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:04CV989 RWS
)	
DON ROPER, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before me on plaintiff's motion to alter or amend the Judgment dated July 19, 2006. On that date, I granted summary judgment to defendants on plaintiff's claims that his placement on meal loaf violated his Eighth and Fourteenth Amendment rights. Plaintiff now asks me to reconsider that ruling by raising the same arguments previously advanced in opposition to summary judgment. However, I find no error in my decision and will accordingly deny plaintiff's request for relief.

Plaintiff again contends that his constitutional rights were violated because defendants did not follow prison policy when they placed him on meal loaf status. As I previously explained in my Memorandum and Order granting summary judgment, even if defendants had not followed the prison's alternative meal service policy, plaintiff's placement on meal loaf would still not violate his eighth

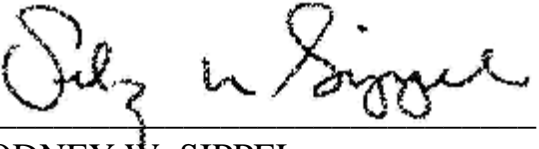
amendment rights. Because the mere failure to follow an administrative procedure does not give rise to § 1983 liability as a matter of law, see Gardner v. Howard, 109 F.3d 427, 430 (8th Cir. 1997), plaintiff's motion for reconsideration will be denied.

Plaintiff next contends that his first amendment rights were violated by defendants' enforcement of the alternative meal service policy. This claim was never raised in this case and cannot be made for the first time on reconsideration. See Capitol Indemnity Corp. v. Russellville Steel Co., Inc., 367 F.3d 831, 834 (8th Cir. 2004) (motion for reconsideration is not the proper vehicle "to tender new legal theories for the first time.") (internal quotation marks omitted). Accordingly, the Court will not consider it as a basis for reversing summary judgment.

Because plaintiff has presented no legal or factual arguments that would warrant reconsideration of my July 19, 2006 Memorandum and Order granting summary judgment to defendants, his motion will be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for reconsideration
[#75] is denied.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 11th day of August, 2006.